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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,763	09/17/2001	Paul J. Thompson	11576.51USII	8878
21127 7590 04/29/2009 RISSMAN HENDRICKS & OLIVERIO, LLP 100 Cambridge Street Suite 2101 BOSTON, MA 02114				
EXAMINER TRUONG, KEVIN THAO				
ART UNIT 3734		PAPER NUMBER		
NOTIFICATION DATE 04/29/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/954,763

Applicant(s)

THOMPSON ET AL.

Examiner

Kevin T. Truong

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-14, 17-19, 23, 25, 26, 28-31 and 33-36 is/are pending in the application.
- 4a) Of the above claim(s) 9, 12, 15 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-14, 17-19, 23, 25, 26, 28-31 and 33-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/07/2007 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8, 10-14, 17-19, 23, 25-26, 28-29, 31, and 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,786,918 to Krivoruchko et al. in view of US Patent No. 6,168,617 to Blaeser et al.

Krivoruchko et al. discloses a catheter that includes an outer shaft (26), inner shaft (24), fluid channel (68A-H), admission port (shown in Figures 3 and 15), stent (28) mounted on the distal region, and a spacer (62) comprising a plurality of "splines" disposed in the fluid channel. The spacer (62) can best be seen in cross-section in Figure 5 and is substantially similar to the spacer shown in Figure 5 of the application. Figure 2 illustrates that the spacer (62) extends a majority of the length of the catheter shafts

(24,26). The admission port that extends through the sidewall of the handle in Figures 3 and 15 (column 6, fines 12-20) is similar to admission port (42) at the proximal end of the shaft disclosed in applicant's specification. The port is in communication with the fluid channel, as Krivoruchko explains that saline may be delivered to the lumen (column 6, fines 12-13), so the structure of the admission port disclosed by Krivoruchko is considered to meet the claim requirements. ~)18 discloses that the inner and outer shafts are slidable relative to one another (column 3, lines 35- 37). As shown in Figure 2, a guide wire (82) may be disposed in the lumen of the inner shaft (24) (column 6, lines 13-14). The stent (28) is self-expanding and deployed by retraction of the outer shaft (26). Krivoruchko fails to disclose or suggest a balloon mounted to the outer tubular member at the stent mounting location and discharge openings in the wall of the outer shaft near the proximal and distal ends of the stent mounting location. Blaeser discloses a catheter with a stent (48) mounted on a distal region of a shaft (14) and a retractable sheath (28). Figure 4 shows that apertures (52) may be formed in the outer sheath (column 6, lines 9-10), and a port (60) is in communication with a passageway in the catheter and the apertures of the outer sheath (column 5, lines 30-32 and 50-54). Some of the apertures may be located proximal or distal to the "stent mounting location", since the sheath (28) extends past both ends of the stent (48). Blaeser teaches that it is known in the art to have the balloon (22) mounted to the outer tubular member at the stent mounting location and the apertures can enhance flexibility (column 6, lines 9-10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a balloon mounted to the outer tubular

member at the stent mounting location and apertures proximal and distal the stent mounting region of the Krivoruchko device as taught by Blaeser in order to effects the ease and ability of the catheter to pass through blood vessel and also that an array of apertures in a retractable sheath of a stent delivery device can enhance flexibility.

Regarding claims 17 and 18, the spacer is considered to have a surface that is capable of being thermally bonded to another surface. No other structural characteristics are required by these claims.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krivoruchko ('918) in view of Blaeser, and further in view of US Patent No. 5,005,584 to Little.

The modified '918 device includes all the limitations of claim 30, except for a pressure measuring device. Little discloses a guide wire that measures fluid pressure and is capable of being used with the modified '918 device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the Little guide wire for the guide wire of the modified '918 device, as this produces a combination that is capable of measuring fluid pressure within a passageway. This combination would provide the operator with the capability of detecting defects in the body passageway.

Response to Arguments

4. Applicant's arguments filed 06/07/2007 have been fully considered but they are not persuasive. Applicant's arguments with respect to claims 1, 25, 33, and 34 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin T. Truong whose telephone number is 571-272-4705. The examiner can normally be reached on Monday-Friday from 8:00 AM to 4:30 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin T. Truong/
Primary Examiner, Art Unit 3734

Kevin T. Truong
Primary Examiner
Art Unit 3734